

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

RABBI DAVID SLOMOVITZ, NATHAN FRANKEL, EDWARD HANDLER, SAMUEL LANDY, MIRIAM LEVITZ, HARRY LIEBER, DAVID REICH, ABRAHAM TAUBER, and MORRIS WALDMAN,

Plaintiffs,

v.

THE ENCLAVE AT FAIRWAYS,
HOMEOWNERS ASSOCIATION, INC., a
New Jersey Domestic Corporation,

Defendant.

Civil No.

**DECLARATION OF
NATHAN REISS**

DECLARATION OF NATHAN N. REISS

NATHAN N. REISS, under penalty of perjury under the laws of the United States of America, does hereby declare and certify pursuant to 28 U.S.C. § 1746 that the following statements are true and correct:

1. I live at 86 Enclave Boulevard.
2. I am a resident of The Enclave at the Fairways ("The Enclave").
3. I am a member of The Enclave at the Fairways Homeowners Association, Inc ("HOA").
4. I purchased my home at the The Enclave on or about December 2015.
5. The Enclave is an active adult over age 55 community located in Lakewood Township, Ocean County, New Jersey.

6. Constructed in 2005 and completed in 2012, The Enclave consists of 348 single-family homes, a clubhouse, a pool and is nearby to a golf course.
7. I am an Orthodox Jew.
8. I believe that my religion requires that I may not use cars or electronic devices (including phones or electronic access keys) during the Sabbath, which commences 20 minutes before sundown on Friday and ends approximately one and a half hours after sundown on Saturday.
9. I also need to attend religious services on the Sabbath.
10. These same conditions apply on several Holy Days occurring throughout the calendar year.
11. I am permitted to use mechanical combination locks, which can be affixed to gates.
12. The Enclave has two entrances, one on Massachusetts Avenue (“Massachusetts exit”) and another at the intersection of Damiano Way and Cross Street (“Damiano exit”).
13. Both of these exits have video surveillance cameras.
14. There are several synagogues where Orthodox Jews may attend services within a short walking distance of the Damiano exit from the Enclave.
15. The Massachusetts exit, on the other hand, is an additional half-mile distant from such synagogues, and travel from that exit to the synagogues requires walking in the dark on unlit roads with no sidewalks.

16. Originally, the entire Enclave property, including the area around the Damiano exit, was surrounded solely by a low two-rail fence. Attached as **Exhibit A** is a true and correct copy of a photograph of one section of this fence.
17. It is relatively easy for individuals to pass the two-rail fence.
18. The Enclave has gates at both the Massachusetts exit and the Damiano exit.
19. Attached as **Exhibit B** is a true and correct copy of a photograph of the Massachusetts exit.
20. When the Enclave was constructed, a pedestrian gate was installed at the Damiano exit (“Damiano pedestrian gate”).
21. Upon information and belief, from the date of its installation until March 2016, the Damiano pedestrian gate remained unlocked, a period of approximately eleven years.
22. In March 2016, Orthodox Jewish residents of the Enclave began to use the Damiano pedestrian gate exit the Enclave and walk to religious services at the nearby synagogues.
23. In direct response to this, in March 2016, the HOA for the first time began locking the Damiano pedestrian gate.
24. In the Summer of 2017, the Damiano pedestrian gate was permanently locked, with access for ingress and egress from the community permitted with an electronic card provided to Enclave residents.
25. After a threat of a lawsuit, the Damiano pedestrian gate was unlocked only during specific times of the day.

26. The times the Damiano pedestrian gate was locked greatly interfered with the schedule of Orthodox Jewish prayers, creating a tremendous burden for Orthodox Jewish residents of The Enclave.
27. The Damiano pedestrian gate then became locked the entire week, including during the Sabbath.
28. In addition to the locking of the Damiano pedestrian gate, the HOA had constructed an approximately eight foot-high solid fence adjoining the Damiano exit, making it impossible to climb over the fence. Attached as **Exhibit C** is a true and correct copy of a photograph of one section of this fence.
29. Except for the area immediately around the Damiano exit, the rest of The Enclave's exterior fencing remains the low, easily passable, two-rail fence. Attached as **Exhibit D** is a true and correct copy of the Damiano exit with fencing.
30. In an effort to attend Sabbath services, some Orthodox Jewish residents of the Enclave walked around the high fence on the Sabbath on November 23 and 24, 2018.
31. In direct response to that, the HOA immediately extended the high fence. Attached as **Exhibit E** is a true and correct copy of a photograph of the fence being extended on November 26, 2018.
32. The HOA announced on or about November 2018 that it was going to install metal skirts on the auto gate barriers on the Damiano exit. This action was to prevent pedestrians from ducking under the auto gate as well.

33. On or about November 2018, the HOA installed these metal skirts. Attached as **Exhibit F** is a true and correct copy of a photograph of these metal skirts.
34. None of these steps have been taken around the Massachusetts exit or the rest of the Enclave.
35. The HOA also organized a short-lived volunteer neighborhood watch composed of homeowners whose function was to wait at the Damiano exit during the Jewish Sabbath and challenge pedestrians attempting to enter the Enclave.
36. On or about December 2017, I filed a complaint with the U.S. Department of Housing and Urban Development and the New Jersey Attorney General's Division of Civil Rights addressing several of these issues. The New Jersey Attorney General's Division of Civil Rights investigated my complaint that the HOA was discriminating on the basis of religious belief in violation of the federal Fair Housing Act and the New Jersey Law Against Discrimination ("DCA Action").
37. The Division of Civil Rights negotiated a settlement agreement with the HOA in the DCA action, but the HOA ultimately refused to sign it.
38. As set forth in the proposed settlement to the DCA Action on November 30, 2018, it would be acceptable to the Orthodox Jewish residents of The Enclave if the Damiano pedestrian gate was left unlocked the following times on the Sabbath (Friday and Saturday) and on religious holidays: The Enclave will unlock the Damiano pedestrian gate a half hour before the Sabbath or religious holidays commence (which is 45 minutes before sunset) on Fridays during the Fall, Winter

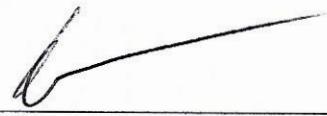
and Spring; Summer months would be 7:30 pm or 45 minutes before sunset, whichever is earlier. The Damiano pedestrian gate will remain open until 12:00 a.m. on the Sabbath on Fridays. The Enclave will unlock the Damiano pedestrian gate on Saturdays at 5:00 a.m. during Standard Time and 4:00 a.m. during during Daylight Savings Time. The Damiano pedestrian gate shall remain open on Saturdays until two hours after sunset. Passage through this gate (both entering and exiting) will be for residents and registered guests (those both permanently registered at the HOA office and on a temporary basis at the guard house).

39. Notwithstanding the efforts by me, the DCA representative, and the attorney for the Orthodox Jewish residents of The Enclave, the HOA refused to leave the pedestrian gate unlocked during the hours referenced above.
40. Shortly after moving to the Enclave in late 2016, I walked out of The Enclave on the Sabbath and was stopped by at least three individuals in cars. I was given visibly dirty looks or told outright that I did “not belong [t]here” by residents.
41. At an HOA meeting in the summer of 2017, a female resident of The Enclave starting screaming at an open forum that she did not want Jewish children in the Enclave. There were no attempts to stop her, neither from the HOA Board nor meeting participants.
42. I then explained at that meeting that, due to the large growth of young Orthodox Jewish families in Lakewood, many retiring grandparents were moving to Lakewood and The Enclave in particular, and that the residents must learn

together in harmony. When I finished speaking, a large group of people chanted:
“Boo, boo.”

43. The same woman who screamed at the HOA meeting approached me in my car on another occasion and spat at me.
44. During the summer of 2017, my children rented a house in Elwood Village, a housing development a block away from the Damiano exit. On numerous occasions they attempted to come visit me on Saturday afternoons but could not as it was too difficult to maneuver under the Damiano exit gate with a baby carriage.
45. It was also extremely difficult for my daughter-in-law to bend in a dress and wig under the Damiano exit gate.
46. On at least six occasions during the summer, I ate at the home of my children on the Sabbath. On those occasions I was physically unable to bend under the Damiano exit gate, and I barely managed to wedge myself between the two gates. This space has since been blocked.
47. The same thing happened at least three times during the winter of 2017 -2018 when I attended Chestnut Shul, Bais Medrash of Elmwood, and Yeshiva Ohr Yissachor—synagogues and shuls outside the Enclave.
48. I was unable to participate in Sabbath meals at friends’ homes outside the Enclave when the Damiano Gate was locked.

Executed on this 5th day of December 2018.



Nathan N. Reiss